

Opioid and Other Substance Use Disorders Interim Study Committee

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Committee Charge

In 2017, the Opioid and Other Substance Use Disorders Interim Study Committee was created pursuant to Interim Committee Request Letter 2017-02 and met six times in the 2017 interim. House Bill 18-1003 continued the committee for two additional legislative interims in 2018 and 2019.

The committee is charged with the following:

- studying data, data analytics, and statistics on the scope of the substance use disorder problem in Colorado;
- studying the current prevention, intervention, harm reduction, treatment, and recovery resources;
- reviewing the availability of medication-assisted treatment and whether pharmacists can prescribe those medications through the development of collaborative pharmacy practice agreements with physicians;
- examining what other states and countries are doing to address substance use disorders;
- identifying the gaps in prevention, intervention, harm reduction, treatment, and recovery resources available to Coloradans and hurdles to accessing those resources;
- identifying possible legislative options to address gaps and hurdles to accessing prevention, intervention, harm reduction, treatment, and recovery resources; and
- examining law enforcement and criminal justice measures addressing penalties for trafficking illegal drugs, and jail-based and prison-based treatment and harm reduction programs and technologies.

Committee Activities

The committee met five times during the 2018 interim. The committee discussed and heard testimony on the following issues:

- national efforts to address the opioid crisis;
- current status of programs addressing substance use disorders in Colorado;
- issues with sober living homes;
- difficulties related to tracking the cost of substance use disorder treatment;
- recovery programs and supports available in Colorado;
- alcohol abuse and binge drinking;
- challenges for pregnant women with substance use disorders and substance-exposed newborns; and
- infectious diseases related to opioid use.

The following subsections discuss the committee's activities in further detail.

National and state response to the opioid crisis. Colorado Attorney General Cynthia Coffman presented on the activities of the Substance Abuse Trend and Response Task Force. She spoke about the task force's collaboration with local law enforcement agencies to distribute and use naloxone and collaboration with other states' attorney generals to investigate the marketing of opioids by pharmaceutical companies. Representatives of the task force and the Colorado Consortium for Prescription Drug Abuse Prevention provided information about efforts at the federal level to address the crisis, including reducing drug demand through education, awareness, and prevention, and expanding opportunities for proven treatments for opioid and other drug addictions. The committee also heard testimony on the state's efforts to increase awareness of the state's medication take-back program, decrease the number of opioids prescribed in emergency rooms, and expand access to naloxone in the community. Staff from the Office of Behavioral Health (OBH) in the Department of Human Services (DHS) provided information about the State Opioid Response Grant it received from the federal Substance Abuse and Mental Health Services Administration. This grant provides funding to states to address the opioid crisis by increasing access to medication-assisted treatment (MAT) for the treatment of opioid use disorder, reducing unmet treatment need, and reducing opioid overdose-related deaths through the provision of prevention, treatment, and recovery activities for opioid use disorder.

Status of Colorado law and initiatives addressing opioid crisis. A representative of the Department of Health Care Policy and Financing (HCPF) informed the committee about the progress the department has made in developing a waiver application for submission to the Centers for Medicare and Medicaid Services to implement the provisions of House Bill 18-1136. The bill adds inpatient and residential substance use treatment as a covered Medicaid benefit. Program staff from the University of Colorado - College of Nursing presented on Senate Bill 17-074, which established a pilot program to increase access to MAT for residents in Routt and Pueblo Counties. The program expanded the number of nurse practitioners and physician assistants who are trained and licensed to provide MAT.

Medical providers, pharmacies, and pharmaceutical manufacturers. Colorado medical providers discussed increasing access to care, the barriers that keep patients from selecting alternatives to opioids for the treatment of pain, such as cost and lack of insurance coverage for alternative therapies, increasing the health care workforce, and issues around e-prescribing. A representative of the Colorado Pharmacists Society spoke about its current sunrise application for pharmacy technician registration and the role some pharmacy technicians have had in diverting controlled substances.

Testimony by a representative of the Pharmaceutical Research and Manufacturers of America (PhRMA) focused on efforts by manufacturers to find public policy strategies to combat the opioid crisis, including ensuring patients with legitimate medical needs have access to appropriate pain treatment options and ensuring patients vulnerable to abuse or addiction receive appropriate treatment. Committee members also discussed drug pricing and the low cost of opioids, drug abuse deterrents, and alternative pain management medications.

Harm reduction and local programs. The committee learned about efforts at the local level to address the opioid crisis. Local officials spoke about naloxone distribution, safe syringe disposal, law enforcement diversions, testing for infectious diseases, counseling services for substance use disorders, and other local public health and substance use disorder prevention efforts.

Treatment and recovery. The committee heard from substance use treatment providers and recovery groups, including OBH, Signal Behavioral Health, the University of Colorado, and Mental Health Colorado (MHC). Presentations and discussion included information on these stakeholders' efforts to:

- provide increased access to MAT across the state through the use of the It Matters program and mobile health units;
- create a sustainable system to train the substance use disorders workforce; and
- increase coordination with other state agencies to pay for care related to substance use disorders.

The committee also explored options for increasing inmate access to MAT in county jails. MHC presented policy ideas to the committee including implementing a system to track substance use disorders, psychiatric and MAT program capacity, and increasing the continuum of treatment capacity. MHC also suggested strengthening the mental health parity law to ensure that substance use disorder treatment is covered by health insurers.

Representatives from the recovery community suggested implementing a program similar to the Angel Initiative, which allows individuals seeking help to overcome a substance disorder to request help at local police stations, emergency rooms, fire houses, and community centers without facing charges for possession of drugs or paraphernalia. In addition, there was extensive discussion about sober living homes and whether these homes should be regulated.

Law enforcement and courts. Members of the law enforcement community discussed the efforts of law enforcement in addressing the sale and use of heroin and the use of naloxone by first responders. In addition, the committee learned about the use of Law Enforcement Assisted Diversion (LEAD). LEAD is a diversion program which connects some offenders with case managers to address social and behavioral health needs. Additional testimony focused on the benefits to funding referral and treatment programs for individuals with substance use disorders who are involved in the judicial system.

Committee Recommendations

As a result of committee discussion and deliberation, the Opioid and Other Substance Use Disorders Interim Study Committee recommends the following five bills for consideration in the 2019 legislative session. The committee also approved sending one letter to the governor-elect regarding opioid efforts.

Bill A – Treatment for Opioid and Substance Use Disorders. Bill A enacts several initiatives to improve access to behavioral health and substance use disorder treatment, as outlined below.

Capacity tracking system. Bill A requires the DHS to establish a centralized, web-based behavioral health capacity tracking system to track bed space use and availability at behavioral health, substance use disorder treatment, MAT, and medical detoxification facilities. The system must be implemented by the DHS by January 1, 2020.

Care coordination system. Bill A requires the DHS to establish a care coordination system to assist individuals in accessing treatment. The system, at a minimum, must include independent screening of the treatment needs of the client, the identification of treatment options, assistance finding available treatment options, and be available 24 hours per day.

Capacity-building grant program. Bill A requires the General Assembly to appropriate \$5.0 million annually to the DHS to make one-time grants to support substance use disorder treatment capacity building in underserved communities.

Identification requirements. Bill A prohibits the OBH in the DHS from penalizing a provider who initiates an individual into treatment who does not have documentation verifying their identity.

Provider rate review. Bill A requires HCPF to complete an out-of-cycle review of provider rates that the department determines have an impact on access to substance use disorder treatment.

Bill B – Substance Use Disorders Recovery. Bill B implements several initiatives relating to substance use recovery, as described below.

Opioid Crisis Recovery Fund. Bill B creates the Opioid Crisis Recovery Fund, which consists of the net settlement or damages awarded to the state as a result of opioid-related litigation, as well as any other money appropriated by the General Assembly. The fund is managed by a newly created Board of Governors, which consists of 26 members.

Housing vouchers for persons with a substance use disorder. Under current law, the Division of Housing provides vouchers and other housing support assistance for persons with a mental or behavioral health disorder who are transitioning from the Department of Corrections (DOC), youth corrections, or a county jail. Bill B specifies that vouchers may also be used to support individuals with a substance use disorder, and allows the division to provide vouchers to individuals who are transitioning from a residential treatment program or experiencing homelessness.

Recovery residences. The Bill B defines recovery residence in statute, and prohibits a recovery residence from operating unless it is licensed by the Colorado Department of Public Health and Environment (CDPHE) and accredited by the Colorado Association of Recovery Residences.

Bill C – Harm Reduction Substance Use Disorders. Bill C creates the Naloxone Bulk Purchase Fund, which is continuously appropriated to the CDPHE, to purchase naloxone in bulk. Local governments, school districts, and other entities authorized by the bill may purchase the naloxone from the CDPHE. Further, Bill C authorizes school districts, charter school institutes, and the governing bodies for private schools to establish a policy to acquire and administer opioid antagonists.

Bill C also requires mobile response units to be available for the provision of MAT in jails and state prisons, and for community-based naloxone training for at-risk populations.

Bill D – Prevention of Opioid and Other Substance Use. Bill D enacts numerous provisions concerning the prevention of opioid and other substance use disorders, as outlined below.

Funding for community public health. For FY 2019-20, Bill D requires the General Assembly to appropriate \$5.0 million for use in addressing opioid and substance use disorders through public health interventions conducted by various community partners. The bill specifies allowable uses for this funding, including data collection, analysis, information dissemination, and community health assessments and improvement planning.

Youth opioid prevention grants. Bill D creates a five-year youth opioid prevention pilot program in the OBH to provide grants to organizations that provide services to prevent opioid use by youths and support to youth whose family members experience addiction.

Local substance use disorder prevention and recovery pilot program. Bill D creates a local substance use disorder prevention and recovery pilot program in the OBH to provide grants to local governments, nonprofit organizations, and other community entities in urban, rural, and frontier areas of the state to support prevention, treatment, and recovery.

Maternal and child health pilot program. Bill D requires the OBH to establish the Maternal and Child Health Pilot Program for the integration of substance use disorder treatment and medication-assisted treatment with obstetric and gynecological health care.

Opioid warning labels. For prescription drugs dispensed in Colorado that contain an opioid, Bill D requires that the label or container must have a specified warning stating, “Caution: Opioid. Risk of overdose and addiction.”

Public awareness on opioid safety and naloxone. Bill D requires the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies at the University of Colorado to develop a program to promote public awareness concerning the safe use, storage, and disposal of opioids and the availability of naloxone and other drugs used to block the effects of opioids during an overdose.

Grant application assistance. Bill D authorizes the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies at the University of Colorado to employ up to four employees to work as grant writers to assist local communities requiring assistance applying for grants to access state and federal money to address opioid and other substance use disorders in their communities.

Maternal and perinatal needs assessment. Bill D directs the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies at the University of Colorado to conduct a state maternal and perinatal population-based needs assessment to examine the prevalence of screening for maternal substance use disorders, the incidence of substance use disorders during pregnancy, the prevalence of MAT during pregnancy, barriers and facilitators to universal prenatal substance use screening, health and human services outcomes among women and newborns with substance exposure, and methods for improving outcomes for mothers and infants affected by substance use disorders.

Maternal and newborn SBIRT services. Bill D creates a pilot program to test the implementation of screening, brief intervention, and referral to treatment (SBIRT) for women's health, prenatal pregnancy, and postpartum care in Alamosa, Boulder, Denver, El Paso, and Pueblo counties.

Testing for persons with hepatitis C or HIV. Bill D requires the DHS, HCPF, and DOC to submit information to the health and human service committees on federal funding available to test persons for hepatitis C, hepatitis B, or HIV. In addition, the departments must report on the number of individuals currently tested for each disease and whether the departments plan to increase the number of persons tested. The departments must also prepare material about testing for these diseases and distribute this information to primary care providers in the state.

Continuing provider education and prohibition of financial benefits. Bill D requires certain health care providers with prescriptive authority, including podiatrists, dentists, advanced practice nurses, optometrists, and veterinarians, to complete substance use disorder training as part of the continuing education requirement for professional license renewal. In addition, the bill prohibits a physician or physician's assistant from accepting any direct or indirect benefit from a pharmaceutical manufacturer or representative for prescribing a specific medication to a patient.

PDMP access by medical examiners. Bill D allows medical examiners who are licensed physicians to access to the prescription drug monitoring program (PDMP) in certain situations.

Bill E – Substance Use Disorder Treatment in the Criminal Justice System. Bill E makes several changes concerning substance use treatment for persons in the criminal justice system, including:

- allowing counties that accept state funding for jail-based behavioral health services to provide MAT for persons confined in the county jail;
- requiring DOC to allow MAT for individuals who are transferred into the custody of the DOC after the person if the person was receiving such treatment in a local jail prior to being transferred;
- authorizing the DOC and sheriffs who operate jails to enter into agreements with community agencies, behavioral health organizations, and substance use disorder treatment organizations to assist in the development and administration of MAT in prisons and jails;
- requiring HCPF to seek federal authorization to provide substance use disorder treatment, including MAT and withdrawal management programs, with full federal financial participation to confined persons;
- appropriating \$1.7 million for jail-based behavioral health and a total of \$4.9 million for two criminal justice diversion programs in the DHS;
- requiring the Commission on Criminal and Juvenile Justice in the Department of Public Safety to study and make recommendations on various issues concerning the treatment of individuals with substance use disorders who come into contact with the criminal justice system, including alternatives to criminal charges, best practices for investigating unlawful opioid distribution, and sealing of criminal records, and to report to the General Assembly by July 1, 2020;

- establish a process for persons with a conviction for a level 4 drug felony or any drug misdemeanor to petition the district court, and persons convicted of any municipal offense involving controlled substances to petition the municipal court, for the sealing of records related to that offense; and
- adjusting the charge of the Substance Abuse Trend and Response Task Force to add the use of drop-off treatment services, mobile and walk-in crisis centers, and withdrawal management programs, rather than continued criminal justice system involvement, for offenders of low-level drug offense to the scope.

Committee Letter 1. The committee approved sending a letter to the governor-elect and the JBC requesting support for efforts in raising awareness of the opioid crisis, prioritizing financial resources to combat the crisis, removing administrative barriers to access to treatment, and facilitating departmental cooperation on substance use disorder issues.